No. 85 JOURNAL OF THE HOUSE

House Chamber, Lansing, Wednesday, October 29, 1997.

2:00 p.m.

The House was called to order by the Associate Speaker Pro Tempore.

The roll was called by the Clerk of the House of Representatives, who announced that a quorum was present.

Agee—present	Emerson—present	Kaza—present	Price—present
Alley—present	Fitzgerald—present	Kelly—present	Profit—present
Anthony—present	Frank—present	Kilpatrick—e/d/s	Prusi—present
Baade—present	Freeman—present	Kukuk—present	Quarles—present
Baird—present	Gagliardi—excused	LaForge—present	Raczkowski—present
Bankes—e/d/s	Galloway—absent	Law—present	Rhead—present
Basham—present	Geiger—present	Leland—present	Richner—present
Birkholz—present	Gernaat—present	LeTarte—present	Rison—present
Bobier—present	Gilmer—present	Llewellyn—present	Rocca—present
Bodem—present	Gire—present	London—present	Schauer—present
Bogardus—present	Godchaux—present	Lowe—present	Schermesser—present
Brackenridge—present	Goschka—present	Mans—present	Schroer—present
Brater—present	Green—present	Martinez—present	Scott—present
Brewer—present	Griffin—present	Mathieu—excused	Scranton—present
Brown—present	Gubow—present	McBryde—present	Sikkema—present
Byl—present	Gustafson—present	McManus—present	Stallworth—present
Callahan—present	Hale—present	McNutt—e/d/s	Tesanovich—present
Cassis—present	Hammerstrom—present	Middaugh—present	Thomas—present
Cherry—present	Hanley—present	Middleton—present	Varga—excused
Ciaramitaro—present	Harder—present	Murphy—present	Vaughn—excused
Crissman—present	Hertel—excused	Nye—present	Voorhees—present
Cropsey—present	Hood—excused	Olshove—present	Walberg—present
Curtis—present	Horton—present	Owen—present	Wallace—present
Dalman—present	Jansen—present	Oxender—present	Wetters—present
DeHart—present	Jaye—present	Palamara—present	Whyman—present
DeVuyst—present	Jelinek—present	Parks—present	Willard—present
Dobb—present	Jellema—present	Perricone—present	Wojno—present
Dobronski—present	Johnson—present		

Rep. Keith Stallworth, from the 12th District, offered the following invocation:

"Dear Lord, bless this chamber and members of this House as we humbly attempt to improve the quality of life for the citizens of Michigan. Give us the wisdom to seek truth, fairness and equity in our deliberations. Give us the strength to voice and vote our convictions, and open our hearts to consider the needs of those less fortunate. Dear Lord, bless us with the consciousness of Your Shepherd so that we may not forget that our success is not measured by the fattest of our flock, but rather by the care and concern that we deliver to the weakest and lost lamb. Help us to always remember that Your Word, the Living Word, is the law, and that our meager efforts to legislate rules for our society mean nothing if we disobey Your basic expectation to love one another. Dear Lord, lift us up so that we may perform beyond our capability and to Your expectations. We thank You for the opportunity to serve. In Jesus Name, let the people say, Amen."

Rep. Dobronski moved that Reps. Hertel, Vaughn, Gagliardi, Hood and Mathieu be excused from today's session. The motion prevailed.

Second Reading of Bills

House Bill No. 5018, entitled

A bill to require certain credit reporting agencies to disclose certain information to certain consumers.

Was read a second time, and the question being on the adoption of the proposed substitute (H-1) previously recommended by the Committee on Consumer Protection,

The substitute (H-1) was adopted, a majority of the members serving voting therefor.

Rep. Bogardus moved that the bill be placed on the order of Third Reading of Bills.

The motion prevailed, a majority of the members voting therefor.

Senate Bill No. 546, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 8117 (MCL 600.8117). Was read a second time, and the question being on the adoption of the proposed amendments previously recommended by the Committee on Judiciary (for amendments, see House Journal No. 81, p. 2166),

The amendments were adopted, a majority of the members serving voting therefor.

Rep. Cherry moved that the bill be placed on the order of Third Reading of Bills.

The motion prevailed, a majority of the members voting therefor.

Rep. Cherry moved that the bill be placed on its immediate passage.

The motion prevailed, a majority of the members serving voting therefor.

By unanimous consent the House returned to the order of

Third Reading of Bills

Senate Bill No. 546, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 8117 (MCL 600.8117). Was read a third time and passed, a majority of the members serving voting therefor, by yeas and nays, as follows:

Roll Call No. 883 Yeas—98

Dobb Agee Kaza Dobronski Kelly Alley Anthony Fitzgerald Kukuk Baade Frank LaForge Baird Freeman Law Basham Geiger Leland Birkholz Gernaat LeTarte **Bobier** Gilmer Llewellyn Bodem Gire London

Price
Profit
Prusi
Quarles
Raczkowski
Rhead
Richner
Rison
Rocca

Bogardus Brackenridge Brater Brewer Brown Bvl Callahan Cassis Cherry Ciaramitaro Crissman Cropsey Curtis Dalman DeHart **DeVuyst**

Godchaux Goschka Green Griffin Gubow Gustafson Hale Hammerstrom Hanley Harder Horton Jansen Jave Jelinek Jellema Johnson

Lowe
Mans
Martinez
McBryde
McManus
Middaugh
Middleton
Murphy
Nye
Olshove
Owen
Oxender
Palamara
Parks
Perricone

Schauer Schermesser Schroer Scott Scranton Sikkema Stallworth Tesanovich Thomas Walberg Wallace Wetters Whyman Willard Wojno

Nays—0

In The Chair: Gire

Pursuant to Joint Rule 20, the full title of the bill shall read as follows:

"An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act,".

The House agreed to the full title of the bill.

Rep. Cherry moved that the bill be given immediate effect.

The motion prevailed, 2/3 of the members serving voting therefor.

By unanimous consent the House returned to the order of

Reports of Standing Committees

The Speaker laid before the House

House Concurrent Resolution No. 70.

A concurrent resolution to urge the President of the United States to reject any agreement on limiting greenhouse gas emissions that apply restrictions only to developed nations and exempt other nations.

(For text of resolution, see House Journal No. 79, p. 2137.)

(The concurrent resolution was reported by the Committee on Conservation, Environment and Recreation on October 23, consideration of which was postponed until October 28 under the rules.)

The question being on the adoption of the concurrent resolution,

Reps. Middaugh and Alley moved to amend the concurrent resolution as follows:

1. Amend the second Resolving clause, line 2, after "United States" by inserting "and the members of the Michigan congressional delegation".

The motion prevailed and the amendment was adopted, a majority of the members serving voting therefor.

Rep. Alley moved to amend the concurrent resolution as follows:

1. Amend the resolution, by striking out all of the eighth Whereas clause and inserting:

"Whereas, Programs to limit greenhouse gases may have the effect of raising energy costs; and".

The motion prevailed and the amendment was adopted, a majority of the members serving voting therefor.

The question being on the adoption of the concurrent resolution,

The concurrent resolution was adopted, a majority of the members serving voting therefor.

Rep. Kilpatrick entered the House Chambers.

Rep. McNutt entered the House Chambers.

Third Reading of Bills

Rep. Cherry moved that House Bill No. 5018 be placed on its immediate passage.

The motion prevailed, a majority of the members serving voting therefor.

House Bill No. 5018, entitled

A bill to require certain credit reporting agencies to disclose certain information to certain consumers.

Was read a third time and passed, a majority of the members serving voting therefor, by yeas and nays, as follows:

Roll Call No. 884 Yeas—72

DeHart **Kilpatrick Profit** Agee Alley Dobronski LaForge Prusi Anthony Emerson Law Ouarles Baade Fitzgerald Leland Raczkowski Baird Frank LeTarte Rison Basham Freeman Llewellyn Rocca **Bobier** Gire Lowe Schauer Bogardus Goschka Mans Schermesser Brater Gubow Martinez Schroer Brewer Gustafson McBryde Scott Brown Hale McManus Stallworth Middleton Byl Hammerstrom Tesanovich Callahan Hanley Murphy Thomas Walberg Cassis Harder Nye Cherry Jave Olshove Wallace Ciaramitaro Jellema Palamara Wetters Cropsey Kaza Parks Willard Kelly Wojno Curtis Price

Nays-27

Birkholz	Geiger	Jelinek	Perricone
Bodem	Gernaat	Johnson	Rhead
Brackenridge	Gilmer	Kukuk	Richner
Crissman	Godchaux	London	Scranton
Dalman	Green	McNutt	Sikkema
DeVuyst	Horton	Middaugh	Whyman
Dobb	Jansen	Oxender	•

In The Chair: Gire

The question being on agreeing to the title of the bill,

Rep. Cherry moved to amend the title to read as follows:

A bill to require certain consumer reporting agencies to disclose certain information to certain consumers.

The motion prevailed.

The House agreed to the title as amended.

Rep. Cherry moved that the bill be given immediate effect.

The motion prevailed, 2/3 of the members serving voting therefor.

Second Reading of Bills

House Bill No. 4984, entitled

A bill to amend 1971 PA 227, entitled "An act to prescribe the rights and duties of parties to home solicitation sales," by amending section 3 (MCL 445.113).

Was read a second time, and the question being on the adoption of the proposed substitute (H-1) previously recommended by the Committee on Consumer Protection,

The substitute (H-1) was adopted, a majority of the members serving voting therefor.

Reps. Rhead, Profit and Palamara moved to amend the bill as follows:

1. Amend page 5, following line 30, by inserting:

"(5) THIS SECTION SHALL NOT APPLY TO A TELEPHONIC SALE WHEN THE SELLER GIVES THE BUYER AT LEAST 7 DAYS TO REVIEW GOODS OR SERVICES AND THE RIGHT TO RETURN OR CANCEL FOR A FULL REFUND AND THE REFUND IS PROCESSED BY THE SELLER WITHIN 30 DAYS OF RECEIPT OF RETURNED GOODS OR NOTICE OF CANCELLATION.".

The question being on the adoption of the amendment offered by Reps. Rhead, Profit and Palamara,

Rep. Rhead demanded the yeas and nays.

The demand was supported.

The question being on the adoption of the amendment offered by Reps. Rhead, Profit and Palamara,

Rep. Ciaramitaro moved that consideration of the amendment be postponed temporarily.

The motion prevailed.

Rep. Cherry moved that House Committees be given leave to meet during the balance of today's session. The motion prevailed.

Rep. Bankes entered the House Chambers.

By unanimous consent the House returned to the order of

Reports of Standing Committees

The Committee on Tax Policy, by Rep. Profit, Chair, reported

House Bill No. 5309, entitled

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 36 (MCL 211.36), as amended by 1994 PA 343.

With the recommendation that the substitute (H-1) be adopted and that the bill then pass.

The bill and substitute were referred to the order of Second Reading of Bills.

Favorable Roll Call

HB 5309 To Report Out:

Yeas: Reps. Profit, Quarles, Agee, Freeman, Gubow, Hanley, Wojno, Perricone, Brackenridge, Cassis, Dobb, Middleton, Whyman,

Nays: None.

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Profit, Chair of the Committee on Tax Policy, was received and read:

Meeting held on: Wednesday, October 29, 1997, at 11:00 a.m.,

Present: Reps. Profit, Quarles, Agee, Freeman, Gubow, Hanley, Wetters, Wojno, Perricone, Brackenridge, Cassis, Dobb, Middleton, Whyman,

Absent: Reps. Palamara, Wallace, Goschka,

Excused: Reps. Palamara, Wallace, Goschka.

The Committee on Forestry and Mineral Rights, by Rep. Anthony, Chair, reported

House Bill No. 4061, entitled

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 503 and 2132 (MCL 324.503 and 324.2132), section 503 as amended by 1996 PA 133 and section 2132 as added by 1995 PA 60, and by adding part 610.

With the recommendation that the substitute (H-2) be adopted and that the bill then pass.

The bill and substitute were referred to the order of Second Reading of Bills.

Favorable Roll Call

HB 4061 To Report Out:

Yeas: Reps. Anthony, Callahan, Alley, Middleton, DeVuyst, Gernaat, Lowe,

Nays: None.

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Anthony, Chair of the Committee on Forestry and Mineral Rights, was received and read:

Meeting held on: Tuesday, October 28, 1997, at 10:30 a.m.,

Present: Reps. Anthony, Callahan, Alley, Bogardus, Brater, Middleton, DeVuyst, Gernaat, Lowe.

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Brater, Chair of the Committee on Consumer Protection, was received and read:

Meeting held on: Wednesday, October 29, 1997, at 9:00 a.m.,

Present: Reps. Brater, DeHart, Brown, Freeman, Gire, Crissman, Cropsey, Perricone,

Absent: Rep. Law.

The Committee on Judiciary, by Rep. Wallace, Chair, reported

House Bill No. 4837, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 2162 (MCL 600.2162), as amended by 1994 PA 67.

With the recommendation that the following amendment be adopted and that the bill then pass.

1. Amend page 3, following line 20, by inserting:

"Enacting section 1. This amendatory act takes effect January 1, 1998.".

The bill and amendment were referred to the order of Second Reading of Bills.

Favorable Roll Call

HB 4837 To Report Out:

Yeas: Reps. Wallace, Baird, Curtis, Freeman, Gubow, Schauer, Vaughn, Wojno, Nye, Cropsey, Fitzgerald, Law, McNutt, Richner,

Nays: None.

The Committee on Judiciary, by Rep. Wallace, Chair, reported

Senate Bill No. 6, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 217b. With the recommendation that the following amendments be adopted and that the bill then pass.

1. Amend page 2, line 4, by striking out all of subsection (3) and renumbering the remaining subsection.

2. Amend page 2, following line 12, by striking out all of enacting section 1 and inserting:

"Enacting section 1. This amendatory act takes effect January 1, 1998."

The bill and amendments were referred to the order of Second Reading of Bills.

Favorable Roll Call

SB 6 To Report Out:

Yeas: Reps. Wallace, Baird, Curtis, Freeman, Gubow, Schauer, Vaughn, Wojno, Nye, Cropsey, Fitzgerald, Law, McNutt, Richner,

Nays: None.

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Wallace, Chair of the Committee on Judiciary, was received and read: Meeting held on: Tuesday, October 28, 1997, at 9:00 a.m.,

Present: Reps. Wallace, Baird, Curtis, Freeman, Gubow, Kilpatrick, Schauer, Vaughn, Willard, Wojno, Nye, Cropsey, Dalman, Fitzgerald, Law, McNutt, Richner.

COMMITTEE ATTENDANCE REPORT

The following report, submitted by Rep. Wallace, Chair of the Committee on Judiciary, was received and read: Meeting held on: Wednesday, October 29, 1997, at 1:00 p.m.,

Present: Reps. Wallace, Baird, Curtis, Freeman, Gubow, Schauer, Willard, Wojno, Nye, Cropsey, Dalman, Fitzgerald, McNutt, Richner,

Absent: Reps. Kilpatrick, Vaughn, Law.

Messages from the Senate

House Bill No. 4080, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 21004 (MCL 333.21004), as amended by 1982 PA 354.

The Senate has passed the bill and pursuant to Joint Rule 20, inserted the full title of the bill.

The House agreed to the full title of the bill.

The bill was referred to the Clerk for enrollment printing and presentation to the Governor.

House Bill No. 4654, entitled

A bill to amend 1966 PA 331, entitled "Community college act of 1966," by amending sections 103, 111, 121, and 124 (MCL 389.103, 389.111, 389.121, and 389.124).

The Senate has passed the bill, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title of the bill.

The House agreed to the full title of the bill.

The bill was referred to the Clerk for enrollment printing and presentation to the Governor.

House Bill No. 4728, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 263 and 264 (MCL 750.263 and 750.264); and to repeal acts and parts of acts.

The Senate has amended the bill as follows:

- 1. Amend page 3, line 12, after "ARREST." by striking out the balance of the subsection and inserting "AN ITEM OF PROPERTY THAT BEARS A COUNTERFEIT MARK IS SUBJECT TO FORFEITURE IN THE SAME MANNER AS PROVIDED IN SECTIONS 4701 TO 4709 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.4701 TO 600.4709. UPON DETERMINATION THAT AN ITEM OF PROPERTY BEARS A COUNTERFEIT MARK, THE COURT SHALL ORDER THE ITEM FORFEITED AND SHALL DO 1 OF THE FOLLOWING:
- (A) IF THE OWNER OF THE IDENTIFYING MARK REQUESTS, RETURN THE ITEM TO THAT OWNER FOR DESTRUCTION OR ANOTHER DISPOSITION OR USE APPROVED BY THE COURT.
- (B) IN THE ABSENCE OF A REQUEST UNDER SUBDIVISION (A), ORDER THE SEIZING LAW ENFORCEMENT AGENCY TO DESTROY THE ITEM AS CONTRABAND OR ORDER AN ALTERNATIVE DISPOSITION OR USE WITH THE CONSENT OF THE OWNER OF THE IDENTIFYING MARK.".
- 2. Amend page 5, following line 20, enacting section 2, after "effect" by striking out "September" and inserting "November".

The Senate has passed the bill as amended, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title of the bill.

The Speaker announced that pursuant to Rule 45, the bill was laid over one day.

House Bill No. 4729, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending section 4701 (MCL 600.4701), as amended by 1996 PA 327.

The Senate has amended the bill as follows:

1. Amend page 4, following line 6, enacting section 1, after "effect" by striking out "September" and inserting "November".

The Senate has passed the bill as amended, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title of the bill.

The Speaker announced that pursuant to Rule 45, the bill was laid over one day.

House Bill No. 4768, entitled

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9948), by adding section 2964.

The Senate has amended the bill as follows:

1. Amend page 3, line 3, after "effect" by striking out "July" and inserting "November".

The Senate has passed the bill as amended, ordered that it be given immediate effect and pursuant to Joint Rule 20, inserted the full title of the bill.

The Speaker announced that pursuant to Rule 45, the bill was laid over one day.

Notices

I hereby give notice that on the next legislative session day I will move to discharge the Committee on Judiciary from further consideration of **House Joint Resolution C**.

Rep. Raczkowski

Public Hearing

Committee on Urban Policy and Economic Development

Monday, November 10, 1997 Date:

Time: 6:30 p.m.

Place: Commission Chambers, 300 Monroe NW, Grand Rapids, Michigan

> Rep. Hanley Chair

Agenda: Improve living conditions in the state's major cities

and any/or all business properly before the committee

Announcement by the Clerk of Printing and Enrollment

The Clerk announced the enrollment printing and presentation to the Governor on Thursday, October 23, for his approval of the following bills:

Enrolled Senate Bill No. 444 at 2:55 p.m.

Enrolled Senate Bill No. 19 at 2:57 p.m.

Enrolled Senate Bill No. 262 at 2:59 p.m.

Enrolled Senate Bill No. 277 at 3:01 p.m.

Enrolled Senate Bill No. 408 at 3:03 p.m.

Enrolled Senate Bill No. 414 at 3:05 p.m.

The Clerk announced that the following bills had been printed and placed upon the files of the members, Friday, October 24:

764 765 Senate Bill Nos. 762 763 766 767 768 769 770 771

The Clerk announced that the following Senate bills had been received on Wednesday, October 29:

Senate Bill Nos. 299 502 535 554 683 694 729 730 731 742

The Clerk announced that the following Senate bills had been approved and signed by the Governor:

Enrolled Senate Bill No. 414 - Public Act No. 118

Enrolled Senate Bill No. 118 - Public Act No. 119

Enrolled Senate Bill No. 119 - Public Act No. 120

Enrolled Senate Bill No. 120 - Public Act No. 121

Introduction of Bills

Reps. Mans, Varga, Brater, Parks, LaForge, Prusi, Cherry, Bogardus, Thomas, DeHart, Kelly and Callahan introduced House Bill No. 5320, entitled

A bill to regulate the selling and leasing of hearing aids; to require manufacturers to provide an express warranty; and to provide for remedies.

The bill was read a first time by its title and referred to the Committee on Consumer Protection.

Rep. Perricone introduced

House Bill No. 5321, entitled

A bill to amend 1979 PA 94, entitled "The state school aid act of 1979," by amending section 6 (MCL 388.1606), as amended by 1997 PA 93, and by adding section 166f.

The bill was read a first time by its title and referred to the Committee on Appropriations.

Reps. Brater, Ciaramitaro, Hale, Martinez, Basham, Murphy, Freeman, LaForge, Schroer, Anthony, Varga, Wetters, Tesanovich, Wojno, Goschka, Gire and Parks introduced

House Bill No. 5322, entitled

A bill to amend 1991 PA 179, entitled "Michigan telecommunications act," by amending section 314 (MCL 484.2314). The bill was read a first time by its title and referred to the Committee on Public Utilities.

Rep. Kaza moved that the House adjourn.

The motion prevailed, the time being 3:20 p.m.

The Associate Speaker Pro Tempore declared the House adjourned until Thursday, October 30, at 10:00 a.m.

MARY KAY SCULLION Clerk of the House of Representatives.